

**IN THE U.S. DISTRICT COURT FOR MARYLAND,  
SOUTHERN DIVISION**

**BEYOND SYSTEMS, INC.**

Plaintiff

v.

**WORLD AVENUE USA, LLC, et al.**

Defendants

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**Case No. PJM 08 cv 0921**

**THIRD-PARTY DEFENDANTS' MOTION FOR RECONSIDERATION,  
AND RENEWED MOTION FOR  
PROTECTIVE ORDER AND FOR STAY OF DISCOVERY**

Third-party Defendants Hypertouch, Inc. and James Joseph Wagner, through counsel, move for reconsideration of the order at DE 432, and submit this filing as a renewed motion for a protective order and for a stay of discovery, and state as follows:

1. Movants' original Motion for Protective Order and Stay of Discovery was filed on June 8, 2010 at DE 265.
2. On September 29, 2010 at DE 432 the Court issued a paperless order denying the motion and explaining that the certificate of good faith efforts was deficient under Local Rule 104.7 for lack of a reference to a conference between counsel.
3. This filing follows Defendant's effort to cure a defective certification at DE 420, pursuant to the order at DE 414 noting the same deficiency in the certificate of good faith.
4. Movants have now filed an amended certificate stating in more detail the efforts taken to address the issue in the motion, including conferences via telephone and in person, in addition to emails and letters.
5. Movants adopt and incorporate by reference their original motion filed at DE 265 and ask that the instant motion be regarded as relating back to that motion.

6. The other parties and counsel are now facing a series of depositions that include travel, as well as other discovery activity, and memoranda to be filed, that create an extremely tight schedule and will occupy counsel and render it virtually impossible to provide full responses for Movants before the discovery deadline of November 15, 2010.

7. By their multiple motions to dismiss, Defendants themselves precipitated substantial delays in the discovery in this case. Movants' motion seeks a relatively short additional stay, in the shadow of substantial discovery requests from Defendant and a straightforward principle of law as the basis for dismissal of the third-party claims, all as further detailed in the motion at DE 265.

8. A stay as to discovery responses from Movants was entered in the companion case of *Beyond Systems, Inc. v Kraft Foods, Inc. et al.*, Case No. 08-cf-00409 PJM at DE 186. Movants' discovery obligations in that case remains in abeyance as of this writing.

WHEREFORE, Third-party Defendants Hypertouch, Inc. and James Joseph Wagner seek a protective order and a stay of their obligations to respond to discovery until their pending motion to dismiss is ruled upon.

\_\_\_\_\_/s/  
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\_\_\_\_\_/s/

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*Attorneys for Third-party Defendants Hypertouch, Inc. and James Joseph Wagner*

**Certificate of Service**

I certify that a copy of the foregoing documents was served on the date of ECF filing, via the ECF system, on all counsel of record.

\_\_\_\_\_/s/  
Stephen H. Ring